

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

520 S. MICHIGAN AVENUE ASSOCIATES,
LTD.d/b/a THE CONGRESS PLAZA HOTEL
& CONVENTION CENTER

Plaintiff

v.

UNITE HERE National Retirement Fund,

Defendant.

Case No. 10 C 1395

Judge Kennelly

ORDER

This matter comes before the Court on the Motion for Turnover Order filed by Plaintiff/Counter-Defendant, 520 South Michigan Avenue Associates, Ltd., d/b/a the Congress Plaza Hotel & Convention Center ("Congress Plaza Hotel"). The Court being fully advised, hereby orders as follows:

1. The Defendant/Counter-Claimant, UNITE HERE National Retirement Fund (the "NRF"), is ordered to turn over \$421,187.76 in interim withdrawal liability payments and \$380.00 for copying costs for a total of \$421,567.76 to be held in an interest bearing escrow account (the "Escrow Account") at the Harris Bank & Trust in Chicago, Illinois pursuant to the execution of an Escrow Agreement between the Bank and the Parties.
2. All matters relating to the interest award and calculation are subject to further order of court and should be addressed in the parties' briefs.
3. Said funds referenced herein shall be distributed from the Escrow Account upon further order of court, or upon the written agreement of the parties.


Honorable Judge Matthew F. Kennelly

Date: May 18, 2010

ESCROW AGREEMENT

Pursuant to Order of Court dated April 15, 2010, in the case of *520 S. Michigan Avenue Associates, Ltd., d/b/a the Congress Plaza Hotel & Convention Center v. UNITE HERE National Retirement Fund*, currently pending before the Honorable Judge Matthew F. Kennelly in the U.S. District Court for the Northern District of Illinois, Eastern Division under case number 10 CV 1395:

This Escrow Agreement dated as of May 17th 2010, ("Agreement") is made by and among (I) 520 S. Michigan Avenue Associates, Ltd., d/b/a The Congress Plaza Hotel & Convention Center (hereinafter "Congress Plaza Hotel"); (II) UNITE HERE National Retirement Fund (hereinafter "Pension Fund"); and (III) The Harris Bank & Trust, an Illinois banking corporation:

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained the parties hereto agree as follows:

1. Appointment of an Escrow Agent. The Congress Plaza Hotel and the Pension Fund hereby appoint the Harris Bank & Trust to serve as agent for the purposes of holding the Escrow Fund (hereinafter "Escrow Fund") upon the terms and conditions herein set forth, and the Escrow Agent accepts such appointment subject to the terms and conditions hereof. Escrow Agent agrees not to charge any fees or costs for establishing said Escrow Fund and to pay interest at the prevailing rate.
2. Deposit. Simultaneously with the execution of this Agreement, Pension Fund has deposited into the Harris Bank & Trust the amount of \$421,187.76 in interim withdrawal liability payments and \$380.00 for copying costs for a total of \$421,567.76 (Escrow Fund). The account number is 4805715537.
3. Maintenance of Escrow. The Harris Bank & Trust shall hold the Escrow Fund in an interest bearing account and shall disburse the Escrow Fund pursuant to and consistent with the terms of this Agreement.
4. Distribution of Escrow Fund. The distribution of the Escrow Fund shall be at the direction of Judge Matthew F. Kennelly, or any judge sitting in his stead, in the United States District Court for the Northern District of Illinois, Eastern Division in Case No. 10 CV 1395, or upon written agreement of the Congress Plaza Hotel and the Pension Fund. Upon "Judgment Order", or written agreement of the Congress Plaza Hotel and the Pension Fund, the Harris Bank & Trust shall disburse the Escrow Fund in accordance with the directions set forth in the Judgment Order or written Agreement.

IN WITNESS HEREOF, the parties hereto have executed or caused this Escrow Agreement to be duly executed as of the day and year first indicated above.

UNITE HERE National Retirement Fund

By: 

Its: Fund Manager

520 S. Michigan Avenue Associates, Ltd.,
d/b/a the Congress Plaza Hotel &
Convention Center

By: 

Its: PRZ S

The Harris Bank & Trust

By: 

Its: Robert J. Laramata Bank Manager P.P.